

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

GILBERT BACA,

Plaintiff,

v.

CIVIL NO. 09-1088 DJS

**SOCIAL SECURITY ADMINISTRATION,
Michael J. Astrue, Comm. Of Social Security
Administration,**

Defendant.

ORDER

THIS MATTER is a *pro se* civil rights action brought under 42 U.S.C. §1983. This matter is before the Court upon Plaintiff's application to proceed *in forma pauperis* pursuant to 28 U.S.C. §1915(d) (Docket No. 3). Plaintiff seeks authorization to proceed without prepayment of the filing fee, costs, or security for costs. Plaintiff has submitted an application to proceed *in forma pauperis* and a financial affidavit in support of that application.

A trial court has wide discretion in denying pauper status under §1915, especially in civil cases for damages. Flowers v. Turbine Support Division, 507 F.2d 1242, 1244 (5th Cir. 1975). "That discretion is limited to a determination of the poverty and good faith of the applicant and the meritorious character of the cause in which the relief was asked." Dillard v. Liberty Loan Corp., 626 F.2d 363, 364 (4th Cir. 1980)(quoting Kinney v Plymouth Rock Squab Co., 236 U.S. 43, 46 (1915).

In this instance, Plaintiff's affidavit is insufficient to establish that he is entitled to *in forma pauperis* status. In order to expeditiously remedy the insufficiency of Plaintiffs' affidavit, this Court

will conduct an evidentiary hearing to determine whether Plaintiff is entitled to proceed without payment of fees.

IT IS THEREFORE ORDERED that an evidentiary hearing will be on Thursday, January 28, 2010 at 10:10 a.m. in the second floor courtroom of the Federal Courthouse at 421 Gold, SW, Albuquerque, New Mexico.



DON J. SVET
UNITED STATES MAGISTRATE JUDGE